

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WA No. 329 of 2019**

1. Rakesh Kumar Rathore S/o Shri Laxmi Narayan Rathore Aged About 38 Years R/o Village Bathora, P.O. Bhilai Bazar, Via-Kusmunda, Tehsil Katghora, P.S. Hardi Bazar, District- Korba (CG), Presently Posted as Lecturer, Government Higher Secondary School, Bagicha, District-Jashpur (CG)

---- Petitioner**Versus**

1. State Of Chhattisgarh Through Secretary, Department Of School Education, Mantralaya, Mahanadi Bhawan, Atal Nagar, District Raipur (CG)
2. District Education Officer, District Jashpur (CG)
3. Commissioner, Sarguja Division, District Ambikapur (CG)
4. Collector, Jashpur, District Jashpur (CG)
5. Block Education Officer, Bagicha, District- Jashpur (CG)

---- Respondents

For Appellant	:	Shri Pawan Kesharwani, Advocate
For Respondents	:	Shri V.A. Agrawal, Panel Lawyer.

Hon'ble Shri P. R. Ramchandra Menon, CJ**Hon'ble Shri Parth Prateem Sahu, J****Order On Board****Per P.R. Ramchandra Menon, CJ****17/07/2019**

1. I.A. No.1/19, application for condonation of delay in preferring this appeal being not opposed by learned counsel for the respondent is allowed and delay is condoned.
2. Interference declined by the learned Single Judge with regard to the prayer sought by the appellant for granting the entire back wages in

respect of the period covered by suspension, till the reinstatement, forms the subject-matter of challenge before this Court in this writ appeal.

3. Heard learned counsel representing the appellant as also learned counsel representing the State.
4. The sequence of events reveals that the appellant, while working as 'Lecturer' was functioning as the 'Invigilator' in connection with some examination. In the course of discharging the said duties, it came to the notice of the authorities concerned that the petitioner was acting contrary to the relevant rules and norms, extending some support, help and undue advantage to the candidates who were taking part in the examination. Pursuant to this, a criminal case was registered against the appellant for the offences under Sections 419, 420, 44, 468 & 114 of the Indian Penal Code, read with Sections 6 & 10 of the Chhattisgarh Examination Act, 2008. The appellant remained in judicial custody from 26.10.2015 to 5.11.2015 and thereafter he was placed under suspension as per order issued by the competent authority on 18.11.2015. On completion of investigation, charge sheet was submitted in terms of Section 173 (2) of the Code of Criminal Procedure, 1973, whereby Criminal Case No.502/2015 was registered and the trial was conducted accordingly. It is the case of the appellant that, on conclusion of the trial, he was acquitted granting the "benefit of doubt". By virtue of the turn of events, the charge sheet already issued to him in connection with the disciplinary proceedings was dropped, the suspension was revoked and he was reinstated in service.

5. The grievance projected before the learned Single Judge was that, having acquitted from the criminal case and since the disciplinary proceeding was dropped, it was not correct or proper to have the salary payable during the period of suspension to be denied and hence he was entitled to have all the benefits in connection with the said period of service.
6. The respondent-State objected to the relief sought for.
7. After hearing both the parties, learned Single Judge, on the basis of analysis of facts & figures observed that suspension having been revoked on 28.8.2017, the writ petitioner was entitled to have benefit of full salary from that date and not from 25.9.2017 onwards. The benefit as aforesaid was granted and the relief sought for by the petitioner for granting full service benefits was turned down in view of the law declared by the Hon'ble Supreme Court vide judgment dated 1.4.2019 passed in Civil Appeal No.3339/2019, parties being Raj Narain v. Union of India & ors.
8. Learned counsel representing the petitioner/appellant submits that the course pursued by the learned Single Judge is not correct or proper and since the entire disciplinary proceeding initiated against the appellant had already been dropped, the appellant is entitled to get full salary for the period of suspension as well. We find it difficult to accept the said proposition, more so, since even according to the appellant, the only circumstance under which the acquittal was granted by the Court was by granting "benefit of doubt". In other words, there is no case of the appellant that he was granted

“honourable acquittal”. Nor is there any case for the appellant that the prosecution launched against him was a malicious one or it was false and fabricated. A person who is proceeded against for his deeds or misdeeds, if ultimately comes to be acquitted from the criminal charge for the fact that the prosecution had failed to prove the offence 'beyond reasonable doubt' or by granting “benefit of doubt”, cannot aspire the State to pay him the entire service benefits. The tax payers' money cannot be sought to be siphoned out insofar as the action against the appellant was pursuant to his own deeds or misdeeds, especially when he does not have any case that there was any attempt on the part of the State/respondents in falsely implicating him in the crime.

9. In the above circumstances, we are of the view that the course pursued by the learned Single Judge is perfectly within the four walls to law and is not assailable under any circumstance. Interference is declined. Appeal stands dismissed.

Sd/-
(P.R. Ramchandra Menon)
Chief Justice

Sd/-
(Parth Prateem Sahu)
Judge

roshan/-